

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * *

UNITED STATES OF AMERICA,) 2:01-CR-00417-LRH (RJJ)
Plaintiff,) 2:05-CV-01166-LRH (LRJ)
vs.)
BRYAN HARRISON,) ORDER
Defendants.)

Presently before this court is Defendant Bryan Harrison's motion pursuant to 28 U.S.C. § 2255 to vacate, set aside or correct sentence by a person in federal custody (#91¹). The United States provided an opposition noting that the petition appeared time barred (#98). Defendant then filed a reply delineating the reasons why the doctrine of equitable tolling should apply to Defendant's situation (#105).

The court notes that Defendant's arguments for equitable tolling have been raised by reply. The government, therefore has had no opportunity to brief the issue to the court. The court will excuse the fact that the issue was first raised in a reply brief and requests the government provide a sur-reply brief on the issue of equitable tolling so that the issue may be fully considered by the court.

25 | //

26 | //

¹ References to (#XX) refer to the court's docket. The docket references refer to case number 02:01-cr-0417.

1 It is therefore ORDERED that the United States provide a sur-reply to Defendant's
2 motion to vacate, set aside or correct his sentence, focusing on the issue of equitable tolling.

3 The United States shall have thirty (30) days from the date of this order in which to file
4 their sur-reply.

5 DATED this 8th day of December, 2006.



6
7

LARRY R. HICKS
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28